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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 000212

SIPDIS

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TAGS: [KDEM](#) [PGOV](#) [IZ](#)
SUBJECT: DE'BAATHIFICATION CONTROVERSY MOVES TO COURTS AS
WINDOW FOR POLITICAL OPTION CLOSING

REF: BAGHDAD 200

Classified By: Acting Deputy Chief of Mission Gary A. Grappo for Reason
s 1.4 (b) and (d).

¶1. (C) SUMMARY: Political currents on January 27 continue to move toward a judicial resolution as the only remaining option in the de-Ba'athification controversy. According to Da'wa spokesman Haider al-Abadi, members of Parliament had lost interest in pursuing a political solution when they realized the Cassation Chamber was up and running to hear appeals on the de-Ba'athification list, while Deputy Parliament Speaker Arif Tayfur said he considers the issue of de-Ba'athification and election lists resolved with the Court of Cassation hearing appeals. A list of names surfaced in the Iraqi media for a new Accountability and Justice Committee (AJC), but with Parliament having closed its session following yesterday's passage of the budget, it appears unlikely that a vote on the AJC nominees will take place before the elections. IHEC confirmed January 27 that 65 candidates have been reinstated based on mistaken identification or weak evidence and that 50 candidates have been dropped by their respective political parties and replaced. IHEC is also exploring limited options for adding candidates to the candidate list if they win their appeals after candidate lists go to the printers on January 31. Saleh al-Mutlak told A/DCM that he was losing patience with the process and was planning to escalate his rhetoric. END SUMMARY.

THE POLITICAL FIX IS OUT

¶2. (C) On January 27, Da'wa spokesman and chair of the Parliament's Economic Committee, Haider al-Abadi, asserted to A/DCM that MPs had lost interest in pursuing a political solution to the de-Ba'athification controversy when they realized that the seven-judge Cassation Chamber was up and running to hear appeals on the de-Ba'athification list. Nonetheless, Abadi said that the PM supports allowing all candidates to remain on the ballot and having the courts review only those on the list that win seats in the election because it was not possible for the Cassation panel to get through all of the appeals before the election. Deputy Parliament Speaker Arif Tayfur told Poloff on January 27 that he considers the issue of de-Ba'athification and election lists resolved, with the Court of Cassation now hearing appeals.

PM'S OFFICE IMPLICATED IN CHALABI AJC EFFORT?

¶3. (C) In a conversation on January 25 in Suleymaniyah, DPM Rafi al-Issawi told the Ambassador that the State of Law's (SLA) strong, quiet ties to Ahmed Chalabi had helped kill ISCI's Ammar al-Hakim's proposal for a political fix. Issawi said that the PM and his office had "repeatedly sidestepped" opportunities to tamp down rhetoric and help identify a

solution despite strong encouragement from Issawi, Hakim, Ayad Allawi and President Talabani. Issawi said he and KRG PM Barham Salih agreed that the death of the Hakim/Ameri proposal came with the ISCI leaders' realization that if they brokered a political solution, SLA would label them as pro-Ba'athists and bludgeon them with the "Ba'athist sympathizer" cudgel in the campaign.

NEW NAMES FOR AJC: TOO LITTLE, TOO LATE?

14. (C) There were media reports that seven names had been put forward for a new Accountability and Justice Committee (AJC) including Kamiram Rasoul and Bakhtiyar Omar (Kurdish Coalition), Mohamed Salim and Mahdi Salih (Iraqi National QCoalition), Mohamed Salim and Mahdi Salih (Iraqi National Alliance/Shia), Hayder Hanoon (Dawa/Shia), Falah Shanshal (Sadrist Trend) and Abdul Razaq Hassan (Tawafuq/Sunni). Abadi told A/DCM that most blocs in Parliament were opposed to Shanshal's inclusion, believing that a Sadrist at the head of the AJC was unlikely to be objective or effective in making progress on de-Ba'athification. In any case, Abadi said, MPs were uninterested in reconstituting the AJC since the Cassation Court had taken on the appeals. Tayfur told Poloff that he did not believe the AJC could be formed in time to review any cases. (NOTE: With the Parliament's session adjourned until March 1 with the passage of the budget, it would be necessary for the Speaker to call an extraordinary session to confirm the AJC candidates, an unlikely prospect. END NOTE).

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IHEC CONFIRMS REINSTATEMENTS

15. (C) IHEC Commissioner Judge Qasim confirmed to Poloff that 65 candidates from the original list of 511 had been reinstated because of weak evidence or because they had been mistakenly identified as Ba'athists. Qasim said a few more reinstatements were expected in the coming days. He also noted that 50 candidates from the list had been dropped by their respective parties and replaced with alternate candidates. UNAMI Electoral Assistance Team Leaders Sandra Mitchell told Poloffs January 27 that those 50 candidates had essentially lost their ability to appeal their cases. Qasim stated that IHEC's disqualification of nine political entities would have little practical effect in the election because the candidates associated with those entities would still be allowed to run, but under the umbrella of their larger political coalition. Qasim cautioned that Saleh al-Mutlak had potentially bigger problems than his disqualification as a candidate. Qasim insisted there were rumors that a court in Baghdad had sensitive evidence of a connection (although it is unclear how strong) between himself, his brother, and terrorist elements. Qasim also said (and UNAMI's Mitchell confirmed) that IHEC plans to print the candidate list beginning January 31, but that IHEC was also considering the possibility of printing an addendum to the list as late as February 20 that would include candidates reinstated by the Cassation Chamber after January 31 up until mid-February when it would no longer be feasible to do so. Mitchell noted that it would not be feasible to add names after this date, since materials had to be distributed well in advance of elections to some 7,000 polling stations in Iraq and to OCV locations abroad.

MUTLAK LOSING PATIENCE

16. (C) An uncharacteristically agitated Mutlak told A/DCM that he believed that he and a large number of candidates from his party would have their disqualification as

candidates upheld by the AJC Cassation Court or the Election Judicial Panel (EJP). He said though the judges were fair men, they were under great pressure and could not be counted on to render fair decisions in the current, highly charged political environment. He criticized the entire AJC/IHEC process as illegal and said he and the Iraqiyya coalition would escalate the issue with public statements tomorrow (January 28). A/DCM stressed to Mutlak that provocative statements by any parties would be extremely unproductive and advised that the U.S. would not support any effort to undermine the electoral process.

NEXT STEPS

¶7. (C) With the candidate list printing deadline drawing near and the locus of the process firmly lodged in the judiciary, Post plans to approach President Talabani, PM Maliki and Chief Justice Medhat to recommend that action be taken to reinstate candidates who are awaiting decisions on their appeals to either the EJP or Cassation Chamber. Their appeals would continue throughout the campaign, election and government formation, but no winning candidates would be allowed to take his/her seat until settlement of his appeal.
HILL